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## Book Reviews

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## BOOK REVIEWS

RESTATEMENT OF THE LAW OF CONFLICT OF LAWS. The American Law Institute. The American Law Institute Publishers, St. Paul, Minn. Pp. vii-xli, 1-814.

Various reviews of this Restatement have already appeared. A review which will really inform readers what is to be found in the book is difficult to write, though with respect to this kind of work, lawyers would like to know just that. At any rate, one may say that after a brief but exceedingly useful introduction of some fifteen pages, there are eleven principal chapters on Domicil, Jurisdiction in General, Jurisdiction of Courts, Status, Corporations, Property, Contracts, Wrongs, Judgments, Administration of Estates, including receiverships, and Procedure. This reviewer is impressed by the chapters on Jurisdiction, Status, Property, and Procedure as the most far-reaching and successful chapters in the book.

Very many of the illustrations will be recalled by anyone who has taken Professor Beale's course. To what extent they are hypothetical we cannot fully determine, at least until we have seen his forthcoming treatise.

Some difficulties which the reader experiences are found scattered through the book. For example, it refers to the law as assigning a domicil to some individual. This seems to make the law a personality with a will which of itself gives directions to individuals with respect to their home. A reader will know what the text means, though he may not fully understand the concept of law thus implied.

In Section 136, the law governing nullity of marriage is announced. It would be helpful if the term "annulment" which most lawyers use were inserted in the index.

In the hypothetical case under Section 169 one wonders whether the matter of solicitation is included as well as delivery. If so, since certificates of stock are held to be goods, wares, and merchandise, could salesmen come into state X and solicit the sale of securities in violation of its Blue Sky Law and would the state be helpless? Does business include both solicitation and delivery? If it means delivery only, would the rule be applicable to the delivery of such securities? Presumably the illustration is based upon *Real Silk Hosiery Mills v. City of Portland*.<sup>1</sup>

Section 307 seems to assume that all revocatory acts are similar in character and none of them operate immediately but are inconclusive as a revocation until death. This result is reached in the face of the rule applicable to the act under the law of the domicil when the act is done. It is generally recognized, however, that some acts such as destruction or destructive act to the document, comprehend-

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<sup>1</sup> 268 U. S. 325 (1925).

ing either a total or partial revocation, operate at once. No revival is possible, if testator should change his mind. If the revocation is by later writing a revival in many states is possible and the revoking act is not immediately effective save to displace the priority of the will so revoked. Presumably Professor Beale has a pertinent case in mind supporting the first illustration on page 390. This reviewer does not know of one. The *Patterson* case,<sup>2</sup> holding that divorce which by the statute of the domicile at the time revokes a will, does not revoke it if testator dies domiciled where there is no such statute, lends countenance to this view. But divorce, like destructive act, seems to operate at once and the will would have to be revived in order to be effective later. It was not revived by the statute of the domicile at time of death in that case. Suppose a will were partially revoked by obscuration under the Wills Act by a testator domiciled in England. Thereafter he died domiciled in New York, which state does not generally recognize partial revocation. Would the New York court permit the introduction of evidence to prove the content of the "nonapparent" provisions? This reviewer believes that any revocatory act to the document is operative at once and that the rule stated is incorrect, undesirable and impracticable.

It is unfortunate that by an error of composition the publishers have put page 119 where page 118 should be and vice versa, so that one must go from 117 to 119 and back to 118.

This restatement is characterized by Professor Beale's well-known positiveness of assertion. Most difficulties are cleverly explained. Despite objections raised by those who do not follow Professor Beale's method of thought, the book does state what the courts are doing, whether consciously or not. To one of his former students it might almost be entitled "Beale Revisited". It is probably the most difficult of all the restatements to formulate and it has been done with consummate skill.

ALVIN E. EVANS.

THE CANON LAW OF WILLS. Jerome Daniel Hannan. The Paulist Press. New York, New York. Pp. v-ix, 1-517.

This book purports to state the canon law of wills. Its value would have been much enhanced by a good introductory statement regarding the sources of the canon law of wills and its present day functions. The book is rather imperfectly documented. For its Roman law citations Sherman on Roman Law is used rather than the appropriate sections of the *Corpus Juris Civilis*. One wonders also where the author finds authority for the text in Section 441 (among others).

THE EFFECT OF AN UNCONSTITUTIONAL STATUTE. Oliver P. Field. The University of Minnesota Press, Minneapolis, Minn. 1935. Pp. x-xi, 1-355.

A remarkable amount of learning has been brought together

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<sup>2</sup> 64 Cal. App. 643 (1922).

under this comprehensive title. It should be of great value coming out as it does prior to the tentative drafts of the Restatement of Unjust Enrichment.

The book will be helpful to those also who are primarily interested in the field of private corporations and is a welcome supplement to the law of *de facto* corporations, rights arising by estoppel, etc. So also the author throws much light upon the problem of municipal quasi-obligations; mistake of law, curative acts, and other similar matters. The last chapter dealing with judicial review, though admittedly fragmentary, is well done and recalls a similar treatment of the English decisions in the recent work by Edward Jenks, *The New Jurisprudence*.